AN ESSAY

To a further

DISCOVERY

OF

Terra Firma:

OR A

PROPOSAL

TO

A more firm *Ascertaining* of Title in Lands.

Hor. Epist. 2. Lib. 1.
Certum voto pete Finem.

London, Printed in the Year, 1663.

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THE FIRM:

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A more Firm Method of Trade

in Lands.

HIST. LONDIN. UNIV.

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To a further

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OF

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LAnd, that in it self (unless by an Earthquake) is immoveable, yet is now adays become the most uncertain and unsteadiest Possession that is. And 'tis strange to consider, that what is alwayes to be found in *Eodem loco*, in the very same place, yet men are afraid to venture thorow, least they lose what they seem to get; and dare rather call Money, Plate, Jewels, and other Movables their own, (as having them,

as it were, in a Manual Poſſeſſion) then that other, notwithſtanding that theſe are ſubject to many Caſualties as the Poet very well obſerves;

Horat. *Serm.* 1,

----Noctesque dies que
Formidare malos fures, incendia, servos,
Ne te compilent fugientes--------

Which with a very little Periphraſis may be Engliſhed thus,

We Theeves and Burnings Night and Day may fear,
And Servants Fugitive away may bear

What we do get, and keep with ſo much care, They are ſubject (you ſee) to ſeveral accidents: And Land but to one, *viz.* a bad Title, which indeed is of ſo much conſideration, That Report tells us, My Lord *Cook*, (an upright man, that never gave his Hand to Corruption, as he was wont to ſay * of himſelf) a Friend of his requeſting him, to conveigh him a good and ſure Title, Replyed, I cannot, unleſs you deal with an honeſt man: *Caveat ergo Emptor*, beware Buyer.

* *Ful.*

Two wayes there be, whereby we indeavour to ſecure our Selves: Firſt, For the Seller or Morgager to take an Oath before a Maſter in *Chancery*, That he knows of no Incumbrance, &c. and this is good, where there is a good Conſcience: But you know who it is that ſays, Wiſe and Wary, men are to be deceived with Oaths. I think I need not be particular, how men are ſerved in this kind,

kind, the whole Kingdom knows it too well: And if neceſſity urged, I could nominate a *Kentiſh* Gentleman, that was thus wiped of 500 l. and that by one who much deſired not only to ſeem moral and honeſt, but (*oh horrendum!*) very Religious.

A ſecond way is to Enrowl, and that is good indeed, and yet may prove but a *Sapientia Phrigia*, a too late diſcretion; for if another have done the ſame before, I ſuppoſe one latter cautious perſon ſhuts the Stable door when the Steed is ſtollen.

How advantagious would it be, if a ſure courſe were taken to prevent theſe Frauds, that ſo good Title to what is bought, good Security to what is lent, might be made.

It may be Objected, That ſearch may be made into the Courts, where Inrowlments are uſually Regiſtred, from thence to be Reſolved; But to this, give me leave a little to Reply, a man is 60 years of age, and entred on his Eſtate of Land at 21, he proffers me to ſell or Morgage, I am perhaps afraid that he eſteems *Jupiters* Stone (an Oath) no more then the dirt or ſtones under his Feet; If I will then ſearch exactly, I have 39 years to go thorough, and that in ſeveral Courts. The ſearch here is long, and there will intervene many thouſand Records to incumber the Searcher, who being perhaps but a Second, and a Subſtitute, may therefore do it but ſuperficially: No man doth ones buſineſs like ones ſelf; but buſineſs may hinder a man, that happily, he cannot in perſon travail to *London*; or if he doth, he knows not well to perform

perform it, and so must rely on others, who concerned no further therein then their Guerdon, may with the tediousness thereof become weary, and so not so wary as they ought indeed to be. Many times (and oftenest Lands are engaged, and no inrowlment thereof made; this may be carried as secret, and unknown from the World, as are the Founder and Sanctions of the Rosy-Crucians, then is my course (I confesse) to inrowl, good; but in the *interim*, here is a large *Ambitus*, a Journey a great way about, and I may say, much search in vain, seeking that which is not to be found, never any Inrolment made. It is true, I ascertain my self of what I doubt of; but if this Purchase or Morgage be inconsiderable, the Searches and Enrowlments may enhaunse it to a 25 years Purchase.

Therefore as in time of *H.* 44. 8. it was by Parliament Enacted, That Christenings, Marriages, and Burials should in every Parish be Registred, in a Book for that purpose kept, to the end, that no man should be put by his Right, but should thereby know his age, be able to prove his lawful Descent, and decease of his Friends, &c. It is conceived, That a Book in like manner to be kept in every Parish, Signed and Attested by the Minister thereof, (who is, or ought to be, an honest, pious, and understanding person) and the Church-wardens, or rather (instead of the last named, because they are oftentimes very plain and ignorant, and so of less validity) the two neareſt Justices of the Peace, mentioning what Lands, how much, of what

qua-

quality, whither Arable, Pasture, or Meadow, Marsh, Wood-land, &c. is Morgaged or Sold, by such a man to such a man, together with the time and sum for what might be very convenient in this kind, whereby inspection and search might easily be made. And indeed, where should a man look for, and enquire for a thing, but where it is: *Scaliger* tells us, *Rerum ipsarum cognitio vera è rebus ipsis est.* Now as the Register in Churches (particularly of Burials) directs one to enquire to Wills, and their Probates, and to Letters of Administration (there being to these a time limited); so putting all into a most direct path, to find out the right of an Estate; even so would this Register direct to a sure and good Title.

Neither would this at all be prejudicial to the inrowlments of the higher Courts above (for as I said before, that most frequently, at this day, (of most Deeds) no Inrowlments are made at all), but it should be as an Index to them, here being onely the Heads and Contents, there in the Courts above the whole matter. *Johannes* * *de Boston*, a Monk of *Bury* travailed all *England* exactly, supervising the Libraries in all Religious Houses, and Wrote a Catalogue of all the Ecclesiastical Writers, as well as Forraign, as Domestical and Native therein to be found; and such his accurateness in his said Catalogue, as not only to tell the inchoative or first word in very Book, but to point at, and declare, in what places of the said Libraries the said Books stood: And truly such Parochiall Registring might be an Index to the Upper Courts,

* *Fal.*

Courts, as *Johannes de Boston's* Schedule or Catalogue was to the ſaid Libraries.

Another thing I might propoſe as prævious to this, and ſeems (to me) to be able yet further to aſcertain and aſſure: It is a Cuſtom as I have obſerved in *Suſſex* and *Kent*, when Scotts (as they tearm them) or Water-Taxes are to be Levied, to proclaim them three ſeveral Sundayes, openly in ſeveral Churches, abutting the Marſhes; ſo to give Notice to all concerned, to provide for the ſaid Payments. And truly, I know not why any honeſt man ſhould be loath or aſhamed to have it known, That he hath occaſion to either ingage or ſell Lands, for it ſeems (to me) all the harm he doth himſelf, is to proclaim himſelf a juſt fair and ſquare dealing perſon, and ſo invites People the more to adventure to deal with him.

I am ſure of late, two Great and Honourable Peers, the Earl of *Huntington*, and the Earl of *Carlile*, were ſo upright, that their Eſtates being intailed by Act of Parliament, (the firſt no doubt requiring it in his Will, and therefore his relict Lady, and his worthy Brother, the Right Honorable Baron of *Loughborough*, (one, who as a late Writer ſays, By his Vertues adds to the Dignity of his Extraction) both indeavouring it: The other himſelf then alive,) procured a like Act, to have power to ſell part of their Eſtates to pay their Debts. And if theſe Great Perſonages, Peers of the Land, were ſo upright and open in their Dealings, and no ways aſhamed to have their Condition laid open to the Repreſentative of the whole Nation, the Parliament; nay, nor were not (I dare ſay) grieved,

when

when these things were inserted in the News Books; why should forsooth then frivolous and inferiour persons be so extreamly tender of their Reputation? Let them Morgage or Sell never so often, at length some Body will take place and right, and then 'tis known; nay, and worse, themselves known for Knaves. If they pretend it will discover their Estates and Conditions, I think I answer satisfactorily to that thus, Whilst things remain thus occult and obscure, we equally may doubt and fear all men, the upright man as well as the Knave, he that never morgaged nor ingaged, as well as him that hath: If so, then this touches no particular mans Reputation; the truth is, (our Eyes daily see it) we dare not confide or trust one in another, without two or three Co-obligees, refusing Land security for personal; and were this way taken, a mans own Estate might be his Security, without troubling others. And indeed Mr. *Hartlib* (in his Legacy) treating about his bank of Lands, hints this Self security; However I am sure his said Bank (which were an excellent thing) could not stand without this proposed way (or the like) of mine.

As the many inconveniencies before the time of King H. 8. procured the fore-recited Act; So, Oh would the many Frauds, the Perjuries in this kind, the fraudulent Conveyances, the double and treble Morgagings, that are and yet may be committed, might cause an Act for the future prevention of them.

One, somewhat more passionately then religiously sayes, *That he thinks Knavery and Cheating the greatest Sin that was; if we sin against God* (saith he) *we can do him no harm; if we Sin against Him and our Selves only, (as in some sort of sins) we hurt not our Neighbours; but the Knave hurts all men:* Other harms may be foreseen, but this of Knavery is ushered in by a dark Lanthorn; One sayes,

Fur cursu fugitur, vel vi fortasse fugatur;
Qui fugeris nebulo laqueum positurus in omnes.

One scapes a Thief by flight, or else by force;
But to prevent a Knave (I pray) what course.

And yet this Knave shall scape better, notwithstanding the great wrong that he doth, then the poor Thief that steals for his Belly: The French Poet could many a year agoe complain of this, sayes he,

Le larron d'un escu, est pendu par Mutheur,
Le larron de dix mille est appelle Mounsieur.

The poor unlucky Thief that steals a Crown
Is hanged up, but he lives in Renown. (down.
That by worse means hath swallowed thousands

The High-way-man, and the Pyrat at Sea, bereaves a man only of his present Carriage; nay, in the latter I have observed a kind of Generosity; these, although they have met with Blows, yet give good enter-

entertainments and welcome, and oftentimes make a ſmall Reſtitution as towards preſent neceſſity. But this Deceivour (of whom I ſpeak) brings us into a worſe Condition; for when he hath undone us, yet hath not he done with us, we being afterwards plunged into chargable and vexatious Suits, and he eſteems it a kind of injury that we ſet not down contented with our wrong, but put him (as he thinks, and calls it) to a trouble. It is a hard caſe, that when by honeſt Induſtry a man ſhall have got a ſum of Money together, and is willing to lay it out (ſuppoſe) for a Houſe to lay his head in, (ſuch a one as he may call his own) or to buy Lands, thinking them more ſecure then his Caſh, he ſhould be eluded and deceived by a Knave, and Himſelf, Wife and Children undone, and ſuch a Miſcreant as did this, ſecure himſelf in Priſon with the Money.

It is a good way of Juſtice they have in *France*, if any make a fraudulent Break, if taken, they are hanged for it, if not taken, their Effigies is ſo ſerved; and me-thinks there is much equity in it, ſuch a one being a Grand Thief trading by wholeſale, and thoſe that Robb by the High-way, and break up Houſes, being but Pettifoggers and Retaylers.

But to return, there is in Lands a kind of Excellency above other Poſſeſſions, not only as I hinted before in the natural and proper ſtability thereof, but alſo in eſteem and reputation. It was and is the Guerdon of Gracious Princes to deſerving Subjects: Thus the Conquerour rewarded his Follow-

ers, but (in particular) thus the Ancestors of the Lord *Eury* were rewarded with Lands in *Scotland*, Subject to *Edw.* 1. Thus Sir *John Copeland*, that took *David le Bruse*, King of *Scotland*, was rewarded by *Edw.* 3. with 500 l. *per annum*, and thus the Lord *Audley* by the Black Prince; nay, 'tis also Guerdon of Piety and Service towards God (and of Temporal Rewards is most especially mentioned in Holy Writ); Thus was *Abraham* assured (several times) of the Land of Promise, and the *Psalmist*, *Psal.* 37. *vers.* 9, 11, 22, 29, 34. So often repeats it to the same effect: To whom also alludes our Saviour himself, in his Sermon upon the Mount, *Matth.* 5. & 5. And that this that is so dignified and ennobled, should lye open to the misuse and abuse of every base spirited person, seems great pity, and that there is not a restraint to them. A sure caution to it, so that whats in it self (to those that have it) so great a Temporal Blessing of God, might not by crafy unconscionable People be made a Snare and a Curse.

Stow.

And truly in the Wish of this, I think all sorts, qualities, and conditions of Men are concerned: First, Noble men; and truly though there be a great Awe and Respect to be used to them, above their Inferiours, as being Peers, and so near y related to their Soveraign, yet now and then they meet with such presumptuous Ones, as dare deceive them. *Stow, Anno* 13 *Edw.* 2. The Earl of *Hereford* bought of Sir *William Bruce* Knight, a portion of Land in the Marshes of *Wales*, called *Gowers*, *Roger Mortimer* the Uncle, and *Roger* the Nephew,

Nephew, (not knowing of the *foreſaid Bargain*) had alſo bought the ſaid Ground of the ſaid *William Bruce*: Alſo the Lord *Mombray*, who had married the Daughter and Heir of the ſaid *William*, claiming it by Inheritance of his Wife; laſt of all *Hugh Spencer* the younger had bought that Land, and turned them all out, wherefore the ſaid Nobles were ſore moved, &c. Here it is plain, that by this covert cloſe underhand-dealing, great and wiſe men were over-reach'd: But to return,

The Nobility have younger Sons, for whom they uſually purchaſe; This propoſed way (or ſome other) would alſo help them into a more ſecure proceeding in ſuch purchaſe: but however, if it doth not concern the Nobility (becauſe of their Greatneſs, and a better poſſibility they have of ſecuring themſelves) ſo much as it concerns others, yet may they pleaſe to remember, that who deſcend from them (I mean by their younger Sons and Daughters) may *Succedenti tempore* devolve into but a Parity with the meaner Gentry. I am ſure, in a Forraign Plantation, I know a young Gentleman (eldeſt Son to the eldeſt Daughter, of a moſt great and antient Earl of this Realm) in a ſervile Condition, but the good nature of his Maſter took him from Field-labour, (preſently after he was informed who he was) and made him his perſonal Attendant, I ſay then, that it concerns the Nobility remotely, and may be a Caveat to perſons Eminent: whom God and the Princes favour hath raiſed up from mean degree, that they remember that providence can reduce them: And

E. Linc.

if it doth not them, yet Sons of theirs, to a Parity with the lowest; and therefore should when promoted, consult *Salus Populi*, which ought to be *Suprema lex*.

The Reverend the Bishops they are concerned, they are but Tenants for tearm of Life, and since the Reformation, being permitted Marriage, they must (in their thoughts) reflect on their Issue. Neither are they in a Condition of Grandeur, so well able to overawe the over-bold presumption of deceiving Knaves, as the Peerage, being commonly descended of Lower Origos, and so their Off-spring being afterwards but ordinary Gentry: A modern Author Observes, That of all the Clergy mens Sons of *England*, none mounted above the Degree of Knight-hood, although of *Ireland* had their Sons Peers.

As for the Gentry, I need only say thus to them; if Lords Spirituall and Temporall be concern'd, much more they, the Reasons aforesaid serving well, also (nay more properly) to their Condition. I come, now to the Merchants and Mariners; *Horace* sayes, *Epistol.* 1. *Lib.*

Impiger Extremos currit Mercator ad Indos,
Per mare pauperiem fugiens, per saxa, per ignes.

The sedulous Merchant to the Indies hyes,
Nor fears he Seas nor Rocks, nor Sols hot fryes,
But under Risosque of these hard want he flyes.

And to no other end, but as the Poet saies elsewhere;

----*Senex*

-----*Senex ut in Otia tuta recedat* Serm. 1.

That being old,
He may in quietness himself upfold.

But many times it falls out contrary, that all this Indeavour gets him money but to buy himself Vexation during life, which really is great pity, none gaining a Livelihood with greater hazard of Life, Health and Means, then these last.

Lastly, As to the Commonalty, *Horace* tell us,

-----*Nil sine Magno,* Satyr. 9. lib. 1.
Vita labore dedit Mortalibus-----

To Mortals frail Nature hath nothing given,
But what they for with Labour great have striven.

This hard Dole of Labour falls especially on the Mechanick and Husbandman, who most usually have nothing wherein to build themselves, save only the sweat of their Brows. And truly such as God hath left to their Self-indeavour, if honest Industry hath afforded them beyond then from hand to mouth, (if there be a Curse upon him that removes his Neighbours Land-Mark (never so little) and leads the blind out of the way) how much more upon him that defrauds these wholly of what they thus honestly gain; and being dim-sighted in these things, (unacquainted beyond their Labour and Indeavour) shall take an occasion from thence

to

to deceive them, leading them into the Woful paths of an utter undoing.

And therefore, the Superiours (I have) before mentioned, being not (*sibi ipsis solum nati*) not born meerly for themselves, will (I hope) take notice of this Concernment also, in respect of the last mentioned, as well as themselves.

FINIS.

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